APPENDIX.

The statutes and regulations, in so far as they are pertinent to the issues here involved, are as follows:

Revenue Act of 1932, c. 209, 47 Stat. 264,

Section 609, TAX ON SPORTING GOODS.

There is hereby imposed on the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 percentum of the price for which so sold: Tennis rackets, tennis racket frames and strings, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games); and all similar articles commonly or commercially known as sporting goods.

Section 621, CREDITS AND REFUNDS.

(d) No overpayment of tax under this title shall be credited or refunded (otherwise than under subsection (a)), in the pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has repaid the amount of the tax to the ultimate purchaser of the article, or unless he filed with the Commissioner written consent of such ultimate purchaser to the allowance of the credit or refund.

Regulations 46, approved June 18, 1932:

Art. 53. Scope of Tax.—The tax attaches to sales by the manufacturer of the articles enumerated in section 6-0 as well as to all similar articles commonly and commercially known as sporting goods, games and parts of games, (except playing cards and children's toys and games).

The term "sporting goods" includes all articles of the same general character as those specifically named, the purpose of which is primarily for use either indoors or outdoors in connection with a game or sport.

The term "game" includes games of skill or chance and every contrivance, device, or combination of articles which is designed to furnish sport, recreation or amusement. Games of the type ordinarily played or used by adults as distinguished from games designed for the use of children, are subject to the tax.

Art. 54. Sporting Goods.—The following list while not exhaustive, is illustrative of the type of articles subject to tax as sporting goods: All paraphernalia, equipment, and uniforms specially designed for or commonly used in athletic contests, archery, baseball, football, basketball, cricket, curling, and similar games or contests, canoeing, bowling, noncommercial fishing (whether designed for or not designed for, or commonly used in, commercial fishing), fencing, tennis, golf, boxing, etc.

Art. 55. Games.—Among articles subject to tax as games are dice, chess and checker sets, ping-pong sets, roulette wheels, backgammon sets, etc.

Parts of games are subject to the tax in the same manner as games.

Revenue Act of 1924, c. 234, 43 Stat. 253, 323:

Section 600 * * *

(8) Coin-operated devices, coin-operated machines, and devices and machines operated by any substitute for a coin, 5 percentum; if the manufacturer, producer, or importer of any such device or machine operates it for profit, he shall pay a tax in respect of each such device or machine put into operation equivalent to 5 percentum of its fair market value;

Regulations 47, revised August 20, 1924:

Art. 21. Coin-operated devices and machines.—The tax applies to all machines and devices operated by a coin. The

following named are examples of such devices and machines: Vending machines, weighing machines, gambling machines, coin-operated devices used in telephone pay stations, coin-controlled locks, shoe shining machines, coin-operated devices, controlling "automats", etc. * * * Machines operated by a hand lever released by dropping a coin or any substitute therefor are taxable.

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